

1 went off together?

2 A Yes.

3 Q Okay. And how -- do you recall that
4 interaction?

5 A Well, I know that there was -- my kids did not
6 seem to be afraid or anything. They seemed to be
7 comfortable.

8 Q Okay. Now, you've indicated that Katie had a
9 very strong negative reaction about going for the
10 medical examination a month and a half earlier --

11 A Correct.

12 Q -- do you recall that?

13 Did she have any similar reaction when you told
14 her that she was going to go off with Sharon in her car
15 to another location?

16 A She did not.

17 Q Did she express any fear or hesitation to you?

18 A She did not.

19 Q If she had, would you have said she couldn't go?

20 A Absolutely.

21 Q Okay. And then when -- we're aware from records
22 that Ms. Krause did take her to her hotel room and did
23 question Katie.

24 When she returned from that interview, do you
25 recall Katie's demeanor?

Plaintiff
objects to
line of
questioning
from page
48-49. Dkt.
202 at 21.
Lack of
personal
knowledge
about
feelings of
other/
Irrelevant
and lacking
probative
value
under FRE
402 and
403.
Hearsay under
FRE 802.

1 A She just -- there was no -- nothing unusual.

2 Q Did she say anything to you, "she" being your
3 daughter, "I don't want to ever see that lady again. I
4 didn't like that lady"? Anything like that?

5 A She did not.

6 Q Okay. And, in fact, she did see her, I think,
7 again a couple of days later?

8 A I believe so.

9 Q Because there is a report, one dated October 16,
10 1984, and one dated October 18th, which report
11 interviews between your daughter and Ms. Krause in
12 Ms. Krause's car and hotel room.

Continued
objection

13 Do you recall that?

14 A Yes.

15 Q Okay. When she was -- you must have had to tell
16 Katie that she was going to go with Ms. Krause a second
17 time before she left on the 18th, I take it?

18 A Yes.

19 Q Do you recall Katie making any statements like
20 "I don't want to go. I don't like that lady. I" -- or
21 words to that effect?

22 A She did not.

23 Q Did you have to force her to go?

24 A I did not.

25 Q Okay. And the records document that during or

1 at least before the interviews Ms. Krause at one point
2 purchased a cold drink for Katie.

3 Did Katie like pop?

4 A She did.

5 Q Okay. Do you think she would have falsely
6 accused her father of sexual abuse in exchange for a
7 pop?

8 A I do not.

9 Q What about an ice cream? There is documentation
10 that an ice cream was bought for Katie. Do you think
11 she would have made a false accusation against her
12 father or agreed to a false accusation against her
13 father in exchange for an ice cream?

14 A I do not.

15 Q And then what about Matthew? The reports
16 indicate that Ms. Krause interviewed your son, Matthew,
17 on October 17th, also taking her to his hotel room.

Objection - not
a question.

18 Do you recall Matthew expressing any hesitation
19 of going with Ms. Krause?

Same
objection
as stated
on p. 48.

20 A No.

21 Q Did he express any thoughts to you when he came
22 back that he didn't like her or he felt uncomfortable or
23 words to that effect?

24 A No.

25 Q Okay. And you're aware, now, I take it, and

1 maybe then, following the interviews that at least Katie
2 at this time did make statements to Ms. Krause that she
3 had been sexually abused by her father.

4 Were you aware of that then?

5 A Yes.

6 Q Do you believe that those allegations were
7 fabricated?

8 A I do not.

9 Q Okay. Why is that?

10 A Her behavior, her demeanor. Just -- just the
11 way she -- just the way she behaved.

12 Q And by "her," you're referring to --

13 A My daughter.

14 Q Your daughter. And what about Ms. Krause? Do
15 you have -- do you think it's likely she fabricated
16 those allegations based on your interactions with her in
17 this time frame?

18 A I do not.

19 Q And why is that?

20 A As I stated earlier, she conducted herself in a
21 professional manner and there was never any indication
22 to me that -- either from my children or her, that the
23 stories were being made up.

24 Q Okay. And did you want these allegations to be
25 investigated thoroughly in this time frame?

Objection to
line of
questioning
from p. 50,
line 25 to p.
52, line 6.
-Dkt. 202 at
21.
-This
testimony calls
for a
speculative
legal
conclusion.
Defense is
seeking to
substitute
opinion of
Ms. Spencer for
that of the
jury.
Also
inadmissible
under FRE 402
and 403.

1 A Absolutely.

2 Q Did you want the investigation to just be
3 stopped and have no one from Clark County to come down
4 and follow up once the California Authority said it was
5 going back to Clark County?

6 A No.

7 Q Okay. Now, approximately a month later, records
8 document that you were interviewed by a Detective Halls
9 from the Vancouver Police Department. He came to your
10 home --

11 A Correct.

12 Q -- after he made a trip and interviewed some
13 other people, I think -- first in Southern California,
14 then he came up to Sacramento.

15 Do you remember that interview with Detective
16 Halls?

17 A Yes.

18 Q And did he indicate to you why he was coming to
19 interview you in November of 1984?

20 A Yes.

21 Q And what did he tell you?

22 A He said that they were investigating Ray for
23 some things that they had heard, found out about. And
24 he said Ray had made a couple of comments or a couple of
25 statements about me that he needed to question me about.

Object
-Not a
question
-Calls
for
speculat
ion
about
what
"Halls"
did.

Objection to
page 52,
line 7 to
page 56,
line 20.

-Dkt. 202
at 14.

-Constitutes
blatant
hearsay
testimony
without
exception
under FRE
802.

-FRE 402
and 403.

-FRE 602
lack of

personal
knowledge -
speculation.

1 Q And was he more specific as to what statements
2 Ray had made about you that the -- that a representative
3 from the Vancouver Police Department needed to follow up
4 on?

5 A He did.

6 Q What did he say?

7 A He said, "I have to ask you two questions. The
8 first one is, did you come back to Sacramento when you
9 left Ray and go into a drug rehab program?"

10 Q Did that statement shock you?

11 A Yes.

12 Q Was that statement true?

13 A Absolutely not.

14 Q What was your response when he asked you that?

15 A I laughed and said, "You've got to be kidding.
16 Absolutely not."

17 Q And did you indicate -- I mean, was it clear to
18 you that Detective Halls had been told this by Ray?

19 A Correct.

20 Q Okay. And was there anything else discussed?

21 A He said to me -- he says "I have to" -- "I have
22 to ask you. According to Ray, he divorced you because
23 he got tired of all the bikers coming to the house" when
24 we lived up in Washington.

25 Q And what was your reaction to that statement?

Continued
objection
from page
53.

1 A I again laughed and said, "I wish I had as much
2 fun as he said I did."

3 Q Were you -- did you socialize with what would be
4 thought of as a biker crowd?

5 A No, I did not.

6 Q Did you even ride a motorcycle?

7 A The last time I rode a motorcycle was the day
8 before I found out I was pregnant with my daughter and
9 that was on our motorcycle that he had.

10 Q That Ray owned?

11 A Yes.

12 Q And then were there any other matters discussed
13 with Detective Halls on this occasion? And specifically
14 was there a discussion about Rhonda Short?

15 A Yes. He told me that he had gone to L.A. and
16 visited with her. And he said when he -- when he
17 interviewed her, she told him the story and his comment
18 was, it was -- she told it as though it had happened the
19 day before.

20 Q Meaning it was very fresh in her mind?

21 A Correct.

22 Q And how long before 19- -- November of 1984 had
23 the incident between your -- your former husband and
24 Rhonda Short occurred?

25 A About six years.

Continued
objection from
p. 53.

Additional
basis of
objection
to
testimony
on page 54,
line 13
to 55, line
19: Dkt.
202 at 2-3.

1 Q Okay. And what did he convey to you was Rhonda
2 Short's version of what happened between her and your
3 former husband?

4 A That she had been raped by Ray.

5 Q She did not have what could be described as
6 consensual sexual relations with Ray?

7 A No.

8 Q Okay. And at the time this -- the sexual
9 activity between Rhonda Short and Ray had occurred,
10 would she have been legally capable of consenting to
11 sexual relations, to your knowledge?

12 A If 17 is legal, then yes. If 17 is not, then
13 no.

14 Q Okay. But she was underage; was that --

15 A Correct.

16 Q -- your specific recollection?

17 A Yes.

18 Q Okay. Did Detective Halls discuss anything else
19 with you?

20 A Not that I recall.

21 Q Okay. Is it possible he discussed anything that
22 occurred while Ray was working undercover for the
23 Vancouver Police Department?

24 A I don't remember.

25 Q Is that -- is it you don't remember. It's

Continued
objection
from page 53
with
additional
basis stated
on page 54.

Additional
basis to
lines 1-17:
calls for
legal
conclusion
and improper
opinion.

Additional
basis to
line 18
to page
56, line
6: lack of
personal
knowledge
(admits
she does
not
remember)

Continued
objection from
page 53.

1 possible or --

2 A I don't remember. It is possible.

3 Q Meaning if his notes documented that, you
4 wouldn't necessarily doubt that --

5 A I would not.

6 Q -- or contradict?

7 And, again, I don't know if I asked you: Did
8 Detective Halls tell you why he was asking you these
9 rather personal questions about Ray Spencer at this
10 time?

11 A He just said that -- something to the effect
12 that they were doing an internal investigation on him.

13 Q Okay. On him being Ray Spencer?

14 A Ray Spencer, yes.

15 Q And, again, were you fabricating any answers in
16 response to Detective Halls' questions motivated by a
17 desire to hurt Ray Spencer?

18 A I was not.

19 Q Were you telling the truth?

20 A I was.

21 Q Okay. Now, I want to turn your attention to an
22 interview that took place the following month, December
23 11th, 1984.

24 And before I ask you about that -- after
25 Detective Krause interviewed your children and you in

Object
-FRE 402, 403
and 802.

1 October and returned to Vancouver, did she -- by
2 mid-December, two months later, did she give you any
3 follow-up on the progress or lack of progress on the
4 investigation as to who had sexually abused or might
5 have sexually abused Katie?

6 A I don't remember.

7 Q But at some point records show that you and
8 Katie came to Vancouver on -- and were in Vancouver on
9 December 10th and 11th.

10 Do you recall that trip?

11 A Yes, I do.

12 Q Okay. And how did you and Katie get there? You
13 met -- did you drive? Fly?

14 A I believe -- I believe we were flown up by the
15 department, whoever was the investigating department. I
16 don't know who paid for it.

17 Q But you didn't pay for it?

18 A No, I did not.

19 Q Someone from Clark County paid for the tickets?

20 A Correct.

21 Q Did Matt accompany you and Katie?

22 A No, he did not.

23 Q So it was just you and Katie flew where? To
24 Portland?

25 A I believe we flew into Portland, and I don't

1 know if we rented a car or we were picked up.

2 Q And where did you go after you arrived in
3 Portland?

4 A I think we -- we went to a hotel room that
5 was -- I believe it was near the police station in
6 Vancouver.

7 Q And then do you recall anything else happening
8 the day you arrived?

9 A I don't remember if that's the day we went to
10 the department or if that's the day we -- at one point,
11 I met with Sharon Krause and Jim Peters, but I don't
12 remember if that was that day or the next day or
13 whenever it was before he interviewed Katie.

14 Q Now, was this the first time you had met Jim
15 Peters?

16 A Yes.

17 Q And what was -- strike that.

18 And who -- where did Jim Peters work? Was he
19 with the Sheriff's Department or somewhere else?

20 A I forget his title. Clark County prosecutors, I
21 believe.

22 Q And did an interview take place between Jim --
23 James Peters and your daughter, Katie, on December 11th,
24 1984?

25 A Yes.

1 Q Okay. Were you present the entire time that she
2 was with Mr. Peters for that interview?

3 A Yes.

4 Q Okay. Where did the interview start out?

5 A It was in a room in the police department, I
6 believe, with a video camera. And Jim, myself. I think
7 Sharon was there for a few minutes, and then she left.
8 And then there was a police officer at the video camera.

9 Q Was he uniformed?

10 A He was.

11 Q Okay. And what do you remember about that part
12 of the interview where it was being filmed by a
13 uniformed officer?

14 A I just remember Katie sitting on my lap.

15 Q Okay. Did -- at any point during that
16 interview, did you feel that Jim Peters intimidated her?

17 A I do not.

18 Q If he had, what would you have done?

19 A I would have left the room with her.

20 Q You wouldn't have allowed him to continue?

21 A Absolutely not.

22 Q And as I understand it, you were with her the
23 entire time that Mr. Peters spoke with her --

24 A I was.

25 Q -- is that right?

Plaintiff
~~reserves right~~
~~to object if~~
~~defendants~~
~~supplement~~
~~highlighting.~~

Objection to
lines 15-21
-Lack of
personal knowledge as
to whether Kathryn
was intimidated;
improper hypothetical

* If Defendants' Motion in Limine is denied on the issue of exclusivity of the Peters interview of Kathryn or the related video or transcript, defendants will introduce the testimony designated with a "dash" line (!) in left margin

1 Now, was there a break where the tape was turned
2 off and the three of you moved to another location for
3 the rest of the interview?

4 A I believe we did go to another room.

5 Q Okay. When that interview resumed, was the
6 uniformed officer still there operating the camera?

7 A No.

Plaintiff
agrees that
lines 1-13
should be
presented
to jury

8 Q At any time during that break, did Mr. Peters
9 coach her with what he wanted her to say when the tape
10 was turned back on again?

11 A Not in my presence.

12 Q Okay. Was she in your presence the entire time?

13 A Correct.

14 Q Can we conclude from that that he did not, then,
15 coach her --

Objection - leading;
improper conclusion

16 A Correct.

17 Q -- at any time during that day?

18 What about you? Did you coach her --

19 A I did not.

20 Q -- as to what to say?

21 A I did not.

22 Q Did he say -- ever say "If you tell me" -- words
23 to the effect that "If you tell me what I want to hear
24 or show me with the dolls what I want to be shown" --
25 and there were dolls used, correct?

Objection
to line 22
through
page 61,
line 4.
-Hearsay
-Asked and
answered;
cumulative

1 A Correct.

2 Q -- "then you can go home" --

3 A No.

4 Q -- "you can leave"?

5 If he had pressured her, coached her, what would
6 you have done?

7 A I would have walked out of the room with her.

8 Q And then we know that -- that you and Katie and
9 he went back on tape?

10 A Correct.

11 Q And do you recall her demeanor changing at all?

12 A She was much more at ease, much more
13 comfortable, little playful.

14 Q What do you attribute that to, given the fact
15 that she wasn't comfortable in the earlier session?

16 A The only thing I could think of was the police
17 officer was no longer in the room.

18 Q Because he wasn't there operating the tape?

19 A Correct.

20 Q I'm going to hand you what has been marked as
21 Exhibit 26, which is a purported transcript of that
22 interview.

23 Can you take a look at that, please.

24 MR. FREIMUND: Ms. Fetterly, given that's a

25 lengthy transcript, do you want to take a break while

Objection
to lines
5-7;
improper
hypothetica
l; lack of
personal
knowledge

Objection
to lines

11-13 -
video
speaks for
itself

Objection
to lines

14-19 -
lack of
personal
knowledge;
no
foundation

Objection to
lines 21-23 -
Exhibit 26 will
not be presented
at trial, see
objection on
page 63.

1 she's reviewing it?

2 MS. FETTERLY: I think that's a good idea.

3 Is that agreeable, Ms. Zellner?

4 MS. ZELLNER: That's fine.

5 THE VIDEOGRAPHER: Okay. We're going to go off
6 the record. It's 10:57 a.m.

7 (Brief recess.)

8 THE VIDEOGRAPHER: Okay. We're back on the
9 record. It's 11:10 a.m.

10 BY MS. FETTERLY:

11 Q Ms. Spencer, referring, again, to the interview
12 that took place in your presence of your daughter by Jim
13 Peters on December 11th, 1984.

14 Were -- in your recollection, were -- as being
15 present throughout the entire interview, were any of
16 Katie's responses non-verbal such as the shake of the
17 head no or a shake of the head yes?

18 A Many of them. Excuse me. Many of them.

19 Q In fact, were the majority of her responses
20 non-verbal?

21 A That's correct.

22 Q Were there also non-verbal responses where in
23 response to questioning she would place the dolls in one
24 position or another?

25 A She did at one point.

Objection
-The video
speaks for
itself -
jury can
conclude
contents of
video by
viewing it;
Ms.
Spencer's
assessment
is
irrelevant,
speculative,
and hearsay

Deposition of Deanne Spencer

SPENCER VS. PETERS

1 Q Okay. And have you had a chance to review
2 Exhibit 26?

3 A I have.

4 Q And based on your recollection of what occurred
5 in that interview and what you just said, do you believe
6 that is an accurate transcription of that interview?

7 A No.

8 Q And why is that?

9 A There's -- there seems to be a lot of words that
10 Katie said or a lot of things that she did and she did
11 not speak very much that day.

12 Q And what about -- does it reflect the non-verbal
13 responses that you just referred to, such as shaking or
14 nodding her nod?

15 A I didn't see any.

16 Q Okay. Does it reflect where she would position
17 the dolls in response to questions from Mr. Peters?

18 A I didn't see indicating that she did.

19 Q Now, Katie was on your lap the entire part of
20 the first -- part of the interview?

21 A Yes.

22 Q And you were with her, right next to her, I take
23 it, for the second part after the break; is that
24 correct?

25 A Yes. At one point we got down on the floor, all

Objection to
lines 1-18
-Neither
party has
introduced
exhibit 26
as a trial
exhibit.
Plaintiff
has provided
the defense
with a
transcript
made by a
certified
court
reporter,
which he
intends to
use at
trial. The
jury can
assess any
alleged
differences
in content
of video and
transcript.

1 three of us.

2 Q Okay. Did you feel Mr. Peters was intimidating
3 her at any point during that interview?

Objection to lines 2-16
-lack of personal
knowledge about whether
Katie was
intimidated.

4 A No.

5 Q And that would be in the first part where he's
6 sitting in a chair and she's -- you're in a chair and
7 he's on your lap -- or she's on your lap; is that
8 correct?

9 A Yes.

10 Q And what about the second part of the interview
11 when the three of you were on the floor? Did you
12 believe he was intimidating her?

continued
objection -
also improper
hypothetical

13 A No.

14 Q And if you had felt that at any point he was
15 intimidating her, what would you have done?

16 A I would have left the room with her.

17 Q I want to now move forward to the time frame
18 March of 1985. Records document that Sharon Krause
19 interviewed Katie and interviewed Matt -- interviewed
20 them separately on March 25th, 1985.

Objection
-Not a
question.
Introduction is
allowed and
necessary

21 Do you recall why those interviews had been
22 scheduled?

Objection to
line 21 to
page 65, line
24

23 A I don't know. Excuse me. No, I don't recall
24 the date.

-Speculative
lacking
foundation,
hearsay.)

25 Q And you don't recall the reason those were being

1 scheduled?

2 A My recollection of timeline is, you know -- is
3 skewed. I can -- I remember a couple of incidents,
4 but --

5 Q Let me just ask this: By this time, by March of
6 1985, had there been some allegations, information
7 conveyed to you that Matt Hanson, Shirley's Spencer son,
8 had accused Ray Spencer of sexual abuse?

9 A Yes.

10 Q Do you think that could have prompted -- the new
11 allegations could have prompted these new interviews by
12 Detective Krause in March of 1985?

13 A Yes. That's one of the memories I have of that
14 particular incident. I just didn't have the date.

15 Q Okay. And if the record showed that Matt Hanson
16 made disclosure mid to late February and into early
17 March of 1985, that would make sense why Sharon Krause
18 was interviewing your children again on March 25th,
19 1985?

20 A Correct.

21 Q Okay. And -- on this occasion, how did the
22 children get to Vancouver? You talked about being flown
23 up in December, but you and Katie were flown by Clark
24 County when she was interviewed by Jim Peters.

25 Do you recall how the three of you, meaning

1 yourself and your two children, got to Vancouver on --
2 for the interview that took place on March 25th, 1985?

3 A My mother and I drove them up.

4 Q Okay. And do you recall where the interviews
5 took place?

6 A At the police department.

7 Q Okay. And this was by Sharon Krause's time not
8 by James Peters?

9 A Correct.

10 Q And do you recall anything specific that
11 happened at the conclusion of the interview of Matt by
12 Ms. Krause? And let me -- in preface to that, were you
13 with the children during the interviews, or did you and
14 your mother wait outside?

15 A We were with -- I was with him -- both of us
16 were with him initially, and then we left the room. And
17 Sharon Krause was with him for about 20, 30 minutes; and
18 then she came out and asked us to come back in.

19 Q Okay. And was Matt in the room when you and
20 your mother came back in?

21 A Yes.

22 Q Okay. And do you remember anything in
23 particular that happened when you and your mother were
24 brought back into the interview room?

See next
page

25 A Sharon said something to the effect that Matthew

1 had shared some things with her. And she looked to
2 Matthew and said, "Would you tell your mom and grandma
3 what you shared with me? And is it okay if I write down
4 what you're saying? I want to make sure I get your
5 words correct."

Objection
-Hearsay
-FRE 403

6 Q And what do you recall Matt saying?

7 A He said very little, but he said, "That happened
8 to me, too."

9 Q And what was he referring to?

Objection
-Hearsay

10 A Being -- his daddy doing things to him, too.

-Speculation /
lack of
foundation

11 Q Did you make any -- form any opinion that Matt
12 had been forced to make -- your son, Matt, had been
13 forced to make those statements to you and your mother?

-Improper
opinion
testimony
-Opinion not
relevant.

14 A No.

15 Q Did you believe he had been intimidated in any
16 way by Sharon Krause?

-Seeking to
substitute Ms.
Spencer's
testimony for
jury question.

17 A No.

18 Q Okay. And did you accept those statements as
19 being credible?

20 A I did.

21 Q And why was that?

22 A I don't know how to put it into words. I
23 just -- I know my son.

24 Q You would have known if he had been forced to
25 say that?

1 A Yes.

2 Q And, now, directing your attention to the
3 following months, now going into May.

4 Was it your understanding that the case against
5 your former husband had been amended to include
6 allegations that he had abused his stepson, Matt Hansen,
7 as well as your son --

8 A Correct.

9 Q -- Matt?

10 A That's correct.

11 Q Okay. And I want to direct your attention to
12 the day before May 9th, 1985. Did Matt make any
13 statements to you that you found unusual?

14 A He did.

15 Q Your son, Matt, now, I'm talking about.

16 A Yes. Yes, he did.

17 Q What were the circumstances when he made the
18 statement to you the day before May 9th of 1985?

19 A It was the day before Jim Rule and Jim Peters
20 were coming to Sacramento to meet with the children in
21 preparation for trial, which was supposed to be two
22 weeks later, I believe.

23 Q Who is Jim Rule?

24 A I believe he was Ray's attorney.

25 Q Okay. So you knew they were coming?

Objection to
-Matt's
statements are
hearsay.
-Dkt. 202 at
15.
-FRE 402 and
403.

1 A Yes.

2 Q Okay.

3 A And it was -- we were meeting with them the next
4 day. But that night --

5 Q Take your --

6 A -- I was at my aunt's house. And she has a hot
7 tub outside, but I was inside talking with her. And
8 Matthew kept coming in saying, "Mommy, Mommy. Come out
9 to the tub. Come out to the hot tub." And I kept
10 telling him "I will."

11 Q You were thinking he just wanted you to come out
12 and see him in the hot tub?

13 A And I was trying to have a conversation with my
14 aunt. So he was so persistent that I finally said,
15 "Okay." It was about 30 minutes later. "Okay. I'm
16 coming." I went out -- the minute I got into the tub,
17 he says, "Mommy, some of daddy's friends did that, too."
18 And I said, "That's very brave of you to be able to say
19 that. Can you tell me who they were?"

20 "No. Ask little Matt. Ask little Matt." I
21 said, "Okay." I asked -- I think I asked him a couple
22 of other questions, but his response was "Ask little
23 Matt. Ask little Matt."

24 Q And what did you think when Matt -- your son,
25 Matthew, made the statement to you -- which appears to

Continued
Objection
from page
68.

1 be totally spontaneous?

2 A Yeah.

Continued
objection

3 Q Was it in response to questions from anybody?

4 A No.

5 Q And the last time he'd been questioned by
6 anybody about this had been six weeks earlier when he
7 spoke with Sharon Krause; is that right?

8 A Correct.

9 Q What did you take of these comments?

Continued
objection;
additional
basis: Ms.
Spencer's
belief
irrelevant
, as is
her
grateful
feelings
about a
therapist.

10 A I, again, was devastated and just -- I believed
11 him. And I actually didn't know what to do with it. I
12 was very thankful that I had a therapist because that's
13 who I was able to contact and -- I'm sorry.

14 Q Go ahead. Take your time. Do you need to have
15 some water or --

16 A No. I'm okay. Thank you.

17 Q Now, you said the next day your children were
18 scheduled to be interviewed by Mr. Rule; is that
19 correct?

20 A Mr. Rule and Mr. Peters.

21 Q And was this the only occasion that Mr. Peters
22 interviewed your son, Matthew?

See next
page

23 A That I recall, yes.

24 Q You don't recall any interview similar to the
25 one he did with Katie where he was alone with him. It

1 was possibly just you present?

2 A No.

3 Q And where did the interviews take place on May
4 9th, 1985?

5 A It was here in Sacramento. I believe it was at
6 Juvenile -- the Juvenile Division. Somewhere there.

7 Q And did you drive your children to that
8 appointed time --

9 A I did.

10 Q -- at the appointed time?

11 And did you meet -- you already knew Mr. Peters,
12 I take it? You met him when you were in Vancouver with
13 Katie in December?

14 A Correct.

15 Q Is that the only time before May 9th that you'd
16 met Mr. Peters --

17 A Correct.

18 Q -- or had any communication with him whatsoever?

19 A Correct.

20 Q And had you ever met Mr. Rule before?

21 A No.

22 Q But I take it you knew who he was?

23 A Yes.

24 Q Okay. And did you feel -- you understood that
25 in order to defend his client, meaning -- his client

Objection
to
testimony
on page
70, line
17 to page
75, line
7. All
testimony
and
evidence
regarding
alleged
May 9
interviews
is subject
to motion
in limine.
Dkt. 202
at 15 (FRE
402 and
403).
-Addt'l
basis:
numerous
hearsay
statements
without
exception.

1 then being Ray Spencer, that Mr. Rule had asked to
2 interview your children --

3 A Yes.

4 Q -- is that correct?

5 Did you give him permission to interview your
6 children?

7 A I did.

8 Q Okay. And did you ask that the prosecutor be
9 present as well?

10 A Yes.

11 Q And that request was honored?

12 A Yes.

13 Q Did you attend the interviews with the two
14 lawyers and your children?

15 A I believe they were in a room with a glass
16 window, and I was seated outside in the waiting area.

17 Q And do you remember either of your children
18 expressing any hesitation about speaking to their
19 father's lawyer and to Mr. Peters on this occasion?

20 A No.

21 Q Okay. When -- after you were -- met Mr. Peters
22 again --

23 And I take it you had to be introduced for the
24 first time to Mr. Rule?

25 A Correct.

Continued
objection
from page
71

1 Q -- was that presumably done by Mr. Peters, that
2 introduction?

3 A Yes.

4 Q Did you say anything about what Matt had stated
5 to you in the hot tub, the prior evening?

6 A I did.

7 Q And were your children present when you made
8 this statement?

9 A Yes.

10 Q Okay. What did you say?

11 A I just said that I had some good news and some
12 bad news. And then I told them that Matthew told me
13 that several of his dad's friends had done that, too.

14 Q And by "done that," what were you referring to?

15 A Had had inappropriate relations or had -- had
16 messed with him.

17 Q Had sexual contact?

18 A Yes.

19 Q Okay. In other words, not just touching them in
20 a physical manner but touching them improper --

21 A In a sexual manner, yes.

22 Q In a sexual manner.

23 And what did you mean by you said you had some
24 good news and some bad news. Why did you use that
25 phrase?

Continued
objection
from page
71

1 A Well, I guess it would be good news for the
2 prosecutor and bad news for the defense attorney.

3 Q Then did the interviews take place with your
4 children?

5 A Yes.

6 Q Were they done separately?

7 A Yes.

8 Q And other than watching through the glass, you
9 didn't participate, I take it?

10 A No.

11 Q Okay. And when they came out of the interview
12 room, first of all, Matt, did he say anything to you
13 about the interview?

14 A I don't recall.

15 Q Did he say anything to you that he felt
16 pressured by Jim Peters?

17 A No.

18 Q And in observing the interviews through the
19 glass, if you'd seen something that made you
20 uncomfortable, that either lawyer was pressuring either
21 of your children, what would you have done?

22 A I would gone in and taken them out.

23 Q They were interviewing them with your consent, I
24 take it?

25 A Correct.

Continued
objection
from page 71

1 Q Okay. And then after the lawyers left and went
2 back to Washington, what was the next thing you heard
3 about the case?

4 A I recall that we were -- we went up there one
5 more time in preparation for trial. And at some point
6 prior to that, we were told that there wouldn't be a
7 trial. He had pled guilty.

8 Q Meaning you were planning to go back up?

9 A Yes, we were planning -- because that was two
10 weeks before trial.

11 Q The interview on May 9th was?

12 A Yes.

13 Q But I take it you didn't actually end up going
14 back for more trial prep -- preparation?

15 A No. We were actually going up for trial.

16 Q For trial?

17 A That didn't take place.

18 Q Okay. And do you know why the trial didn't take
19 place?

20 A I was told because he pled guilty.

21 Q And how long -- approximately how long after the
22 May 9th interview with Mr. Rule and Mr. Peters did you
23 learn that Ray Spencer was pleading guilty?

24 A It seems like it was within a couple of weeks.

25 Q Okay. Fairly short time?

Continued
objection
from page
71, with
emphasis
on FRE
802.

1 A Yes.

2 Q Okay. And was -- did you attend his sentencing?

3 A I did.

4 Q Okay. And what was your reaction when you heard
5 he was sentenced to, actually, life imprisonment?

6 A Relief.

7 Q Okay. And why was that?

8 A My fear dissipated.

9 Q And what was that fear?

10 A That he would get out and harm them again.

11 Q Would you have preferred that he actually
12 receive treatment?

13 A Yes.

14 Q As opposed to a lengthy prison sentence?

15 A Yes. It would have been better for my children.

16 Q And what did you tell your children about their
17 father as they were growing up as to why he was no
18 longer part of their lives; why they weren't visiting
19 him in the summers anymore or Christmas?

20 A I told them that his daddy -- their daddy was
21 sick and ill and that he needed help.

22 Q Did you say anything other than that to them
23 about it?

24 A No.

25 Q Okay. Did the children continue to have

Objection
-FRE 402 and
403. Ms.
Spencer's
feelings and
hearsay
statements to
children are
irrelevant to
issues in this
case.

1 counseling?

2 A They did.

3 Q Okay. And how long, approximately, did they
4 have counseling?

5 A In intervals over about ten years.

6 Q As far as Katie is concerned, first, do you feel
7 that counseling was helpful to her?

8 A I do.

9 Q And what about as to Matt; your son, Matt? Do
10 you feel that counseling was helpful to him?

11 A I do.

12 Q I'm looking for an exhibit, Ms. Zellner. That's
13 why there's a pause here.

14 At some point around the year 2003, 2004,
15 Ms. Spencer, did you learn that Ray Spencer was seeking
16 a commutation of his sentence from then Washington State
17 Governor Locke?

18 A Yes.

19 Q Okay. Do you recall how you learned that?

20 A I believe I was notified by Clark County.

21 Q And did you express your feelings about that to
22 the Governor's Office?

23 A I believe I wrote a letter.

24 Q And what were your feelings about whether or not
25 Mr. Spencer's sentence should be commuted by 2003, 2004?

Objection
-Irrelevant
-Improper
opinion
testimony.

1 A Since he had never received any help, I didn't
2 feel he should be released.

3 Q And was that consistent with your thought all
4 along that he really should have treatment?

5 A Correct.

6 Q And I'm showing you what's been marked as
7 Exhibit 19.

8 Do you recognize that document?

9 A Yes.

10 Q And what is that document?

11 A It's a document that my son had me write.

12 Q And you said your son had you write. How did it
13 come about that your son asked you to actually write the
14 words in that document?

15 A To the best of my recollection, when we found
16 out about his dad, I had said I would write a letter to
17 the governor. And I asked -- he asked me if I would
18 write one for him. I said, "If you want to, you can."
19 He said, "Would you write it for me? I'll sign it." I
20 said, "Yes."

21 Q And this was March 2nd, 2003; is that right? Is
22 what the letter is dated?

23 A Yes.

24 Q How old was your son, Matthew, in March of 2003?

25 A 28, I believe.

Objection
-Hearsay

1 Q Was he living at home with you?

2 A No.

3 Q Was he financially dependent on you for his
4 support --

5 A No.

6 Q -- in any way?

7 A No.

8 Q Now, prior to him signing this letter -- and he
9 did sign the letter, did he not?

Objection

-Lack of foundation

10 A Yes.

11 Q Okay. We'll get to that in a moment.

12 Had he been approached, to your knowledge --
13 "he" being your son, Matthew -- by any representatives
14 of his father's attorneys, after he turned 18, who
15 wished to speak with him?

Objection
-Hearsay
-Lack of
relevancy
or
probative
value

16 A I don't know if it was the attorneys, but two
17 men -- excuse me -- showed up at our house when we lived
18 on -- I think it was Shadow Creek or one of them. It
19 was the second house we were at. They showed up at the
20 house, and I remember it was early in the morning. He
21 was on his way to go to work for his stepfather in Lodi.
22 And he came running back in the house and grabbed a
23 baseball bat and said, "Two of the men are here, Mom."
24 And he started to run out, but they drove off.

25 Q Was Matt over 18 at this time?

1 A Yes.

2 Q But he was still living at home, I take it?

3 A Yes.

4 Q Was it your impression from hearing what your
5 son's reaction that he did not want to speak to any
6 representatives of his father's attorneys?

7 A Yes.

8 Q Okay. In fact, he even said he was going to get
9 a baseball bat to run them off?

10 A He did get a baseball bat and ran out with it.

11 Q You actually saw him get the baseball bat and
12 run out with the bat?

13 A Yes.

14 Q Okay. But fortunately they had left?

15 A Yes.

16 Q So there was no physical confrontation?

17 A No.

18 Q Did that sort of accurately reflect any feelings
19 Matthew had expressed in that time frame to you about
20 the subject?

21 A Matthew did not speak to me very much about it,
22 but he was afraid that day. That was obvious to me.

23 Q So turning back to Exhibit 19, do you recognize
24 your son's signature on that document?

25 A I do.

Objection
-Not
relevant
and based
on hearsay
on
previous
page. Ms.
Spencer's
impression
s and what
was
obvious to
her are
inadmissib
le.

1 Q Did you force him to sign that document?

2 A I did not.

3 Q Could he have -- you have forced him to sign
4 that document?

5 A No.

6 Q Did you have any financial leverage over him at
7 that time?

8 A No. I was actually living with my father.

9 Q And physically, you seem -- you appear to be a
10 rather slight lady.

11 How much was -- how tall was Matt at this time?

12 A He's six-foot.

13 Q Could you have physically forced him to sign
14 that letter?

15 A I don't see how that would be possible.

16 Q To the best of your understanding, based on what
17 you observed at the time, did Matt Spencer freely and
18 willingly sign Exhibit 19?

Objection - improper
opinion and legal
conclusion testimony

19 A Yes.

20 Q If he had said, "I don't want to sign it" --

21 A I would have thrown it away.

22 Q Did you -- strike that.

23 You testified earlier that you were interviewed
24 by Sharon Krause on one occasion in October of 1985; is
25 that right?

1 A Yes.

2 Q And showing you -- it's Exhibit 11. Do you
3 recognize Exhibit 11 as Ms. Krause's report of that
4 interview?

5 A Yes, I do.

6 Q Have you had occasion before testifying today to
7 review that report?

8 A I have.

9 Q Okay. Is that report, Exhibit 11, an accurate
10 report of what you stated to Ms. Krause --

11 A Yes.

12 Q -- on October 18th of 1984 --

13 A Yes.

14 Q -- following her interview?

15 Now, did she take notes during the interview?

16 A She always took notes.

17 Q Okay. So she didn't have a tape recorder,
18 though, I take it?

19 A I don't remember.

20 Q Okay. But you do recall specifically that she
21 took notes?

22 A Yes.

23 Q So would it be fair to say that she didn't write
24 Exhibit 11 strictly from her memory, that she did have
25 some notes?

Objection

-Plaintiff disputes
admissibility of
Exhibit 11, as it is
irrelevant and for
reasons stated in
dkt. 202 at 2-3, 21.

Objection
-calls for
speculation

1 A Correct.

2 Q Is -- following your review of Exhibit 11, is
3 there anything contained in Exhibit 11 that is false
4 information that you didn't tell her?

5 A No.

6 Q Okay. In other words, is there anything in that
7 report that is information fabricated by Sharon Krause?

8 A No.

9 Q Is that -- is that report an accurate
10 description of what you told her --

11 A Yes.

12 Q -- during that interview?

13 Now, do you have any reason to believe that
14 Sharon Krause fabricated allegation based on what your
15 children told her in that same time frame?

16 A I do not.

17 Q And why is that?

18 A Based on my experience with my children and the
19 things they said to me without anybody else present,
20 there would be -- I don't see how she could or why she
21 would even do that. I can't speak for her, but I don't
22 see any -- I'm not sure -- I don't know how to really
23 answer that. It's just, I guess you could say, a gut
24 feeling. But I did not give her any false information,
25 and I never had any indication that she was writing

Objection to
testimony
regarding
exhibit 11
(see page 82)

Objection
-Lack of
personal
knowledge;
speculative
-Irrelevant
-FRE 403
-Improper
opinion
testimony
-Not
disclosed
or
qualified
as expert.

1 false information or making up stories.

Continued
objection

2 Q Could you -- could you imagine any possible
3 motivation that she would have had to falsify
4 information about what your children said to her?

5 A No, I can't.

This
testimony
continues to
be based on
speculation
and improper
opinions.

6 Q Did she ever give you any indication that she
7 was hoping to find -- or hoping to conduct the
8 investigation of the allegations in a manner that Ray
9 Spencer would be charged with crimes?

The
testimony is
also
irrelevant

10 A No.

11 Q Okay. What are your feelings now towards Sharon
12 Krause?

to the
issues in
this case.

13 A I've not seen or spoken to her in many years,
14 but I still have always felt a great deal of respect and
15 admiration for her.

16 Q And why do you say that?

17 A Because of the manner in which she dealt with my
18 children and the professional manner with how she dealt
19 with me and the whole situation.

20 Q Can you be a little more specific as to the
21 manner in which she dealt with your children?

Ms. Spencer
has not

22 A She always would tell them, you know, this is --

23 "This is what I'm going to do. Is that okay with you?"

established
any

24 I'm going to write this down so I" -- "so I don't make a

25 mistake. I get the right words. Is that okay with

foundation
for this

1 you?" She did the same with me. She -- there was never
2 any intimidation. It was always -- she did what she
3 could to make them comfortable and safe.

4 Q Finally, before I finish my questioning, are you
5 here voluntarily today?

6 A No, I'm not. I've said I don't want to be a
7 part of this. This is my children and their father.
8 And I didn't want to be anywhere in this.

9 Q But you are here today. But you are only here,
10 I take it, because you've been subpoenaed?

11 A Correct.

12 Q You had no choice but to be here?

13 A I did not.

14 MS. FETTERLY: Thank you. I have no further
15 questions. Ms. Spencer, I know it's been hard for you
16 and feel free if you want a break. Likely the other
17 lawyers will want to ask you some questions. So if you
18 want a break, please do not hesitate to say you do.

19 THE WITNESS: No. I'm fine.

20 MS. FETTERLY: You are. You want to continue?

21 THE WITNESS: Yes.

22 MS. FETTERLY: Counsel?

23 MR. FREIMUND: I can go unless Ms. Zellner wants
24 to go first.

25 MS. ZELLNER: You can go, and then I'll go last.

Cont.
Object.

Unnecessary

Can you estimate how many times total you were

Continued
objection
from page 85

1 at the Clark County Sheriff's Office during that time
2 frame?

3 A I think it was either two or three.

4 Q During any of those occasions that you were
5 there, did you ever see Shirley Spencer at the police
6 department?

7 A Not that I recall.

8 Q Okay. I'm going to kind of go back in the order
9 that Ms. Fetterly asked you some questions and pick up
10 on my notes about that. And where I'd like to start is
11 when you first divorced the plaintiff in this lawsuit,
12 Ray Spencer.

13 During those divorce proceedings, did
14 Mr. Spencer seek to have custody of your two children?

15 A He did.

16 Q Was he -- was there a court hearing in which
17 custody was disputed?

18 A We did go to trial.

19 Q Mr. Spencer testified that his lawyer did not
20 show up for that hearing and somebody else appeared
21 instead of his regular lawyer. Is that your
22 recollection?

23 A I don't recall.

24 Q Okay. When custody was awarded to you with
25 visitation by Ray Spencer, do you know whether or not

Objection
to page
87, line 9
to page
88, line 2
-FRE 402
and 403.
-Dkt. 202
at 21, 2-3

1 Ray Spencer sought an appeal of that decision?

2 A I was never aware of one.

3 Q You mentioned that Matt's therapist's name was
4 Connie Nichols.

5 Do you recall who Katie's therapist was?

6 A They both had two. Connie Nichols was Matt's
7 first therapist, and James Cooper was his second one.
8 Katie started with Ann Link, and then her last therapist
9 was Deborah Moore, Dr. Deborah Moore.

10 Q You said that on at least a few occasions you
11 were present with Katie's therapist.

12 Were you also present in times with Matt's
13 therapist?

14 A I was only in the room with him, I believe --
15 there was one occasion where I was invited in after he
16 had had a session with -- I believe it was James Cooper,
17 where he -- he demonstrated he burnt a picture in the
18 sandbox.

19 Q Do you know what the picture was that he burned?

20 A It was a picture of his father.

21 Q Do you know approximately how old Matt was when
22 that incident happened?

23 A Nine or ten.

24 Q Did either Connie Nichols or James Cooper ever
25 relate to you or were you present during any therapy

Objection
-Speculative
-Hearsay
-FRE 402 and
403

1 sessions that they were providing to Matt where he was
2 discussing sexual abuse by anyone including his father?

3 A No.

4 Q Were you ever present in any therapy sessions
5 with Ann Link or -- I'm sorry. I didn't write down the
6 second therapist for Katie.

7 What was her name again?

8 A Deborah Moore.

9 Q I'm sorry. Were you ever present -- present at
10 any therapy session with either Ann Link or Debbie Moore
11 where Katie was describing sexual abuse by anyone
12 including her father?

13 A Yes.

14 Q Was it regarding her father that you were
15 present at when she was describing it to the therapist?

16 A Yes.

17 Q Was it Ann Link or Debbie Moore that you were
18 present at when Katie was describing the sexual abuse by
19 her father?

20 A Ann Link.

21 Q Do you recall approximately how old Katie was
22 when she was disclosing sexual abuse by her father to
23 her therapist, Ann Link, in your presence?

24 A Five.

25 Q Do you recall what she described to Ann Link in

1 your presence?

2 A I believe she just --

3 (Video conference disconnected.)

4 MS. FETTERLY: We have a technical problem here.

5 THE VIDEOGRAPHER: Let's go off the record.

6 It's 11:46 a.m.

7 (Brief recess.)

8 THE VIDEOGRAPHER: We're back on the record.

9 It's 11:47 a.m.

10 BY MR. FREIMUND:

11 Q I'm sorry, Ms. Spencer, but I had just asked a
12 question when we got disconnected, and I don't know if
13 you heard the entire question; so let me ask it again.

14 Do you recall what Katie disclosed to Ann Link
15 in relationship to sexual abuse by her father while you
16 were present?

17 A I believe she -- I can't remember if that's when
18 she had -- Ann Link, I believe, had a couple of anatomic
19 dolls. And I think she showed us like her daddy putting
20 his mouth on her genitals, and I don't recall much else.

21 Q Can you kind of put in time when that occurred
22 in relationship to when Detective Flood from the
23 Sacramento Police Department interviewed you and the
24 kids, when Ms. Krause came down there when you went up
25 to meet with Mr. Peters in December of '84 and

1 otherwise? I mean, can you tell us when that happened
2 approximately among those events?

3 A It was in between -- because we had -- the
4 therapy was started within the first week, within the
5 first week of August 29th. So it would have been within
6 about three or four weeks after that.

7 Q Would it have been before Sharon Krause first
8 interviewed Katie that Ann Link received this disclosure
9 from Katie? That first interview would have been in
10 October of 1984 by Ms. Krause, as I understand it.

11 A I'm sorry. I don't recall.

12 Q Okay. But your recollection is it was about
13 four weeks after therapy started that Katie disclosed to
14 Ann Link in your presence using anatomically correct
15 dolls --

16 A Yes.

17 Q -- that her father had sexually abused her?

18 A Yes.

19 Q And you're saying therapy began approximately
20 around the first of September of 1984?

21 A It began the day -- August 30th -- after --
22 okay. I'm sorry. August -- the Wednesday was the 29th.
23 30th is when I took her to the doctor. And by the 31st,
24 I was meeting with her first therapist.

25 Q Okay. And that was about four weeks after that